

REMARKS

The Office Action states that claims 41-43, 46 and 47 are in condition for allowance except that Applicants are required to cancel non-elected subject matter in the base claim 41. The Office Action cites Paper No. 16, the first substantive Office Action, as stating that the invention being prosecuted in this case will be a method of restoring NF- κ B activity by administering a protein that restores NF- κ B activity. The Office Action states that “[s]ince the base claim as currently recited encompasses nucleic acid agents as well as any other agent and the claims as prosecuted were drawn to protein, Applicant is required to amend the base claim for insertion of the prosecuted subject matter.”

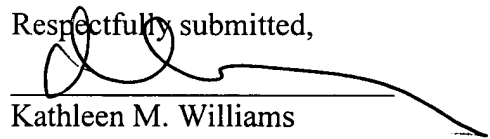
The amendment to claim 41 directed herein limits the “agent” to “a *protein* which restores NF- κ B activity.” Dependent claim 42, which recited that the agent is a protein is cancelled as it no longer further limits claim 41 as amended.

Applicants submit that the limitation of the prosecution to protein agents stated in Paper No. 16 was made to reduce the burden on the Examiner of examining all of the species originally stated in claim 43. The amendment made herein is therefore not made for reasons relating to patentability. Furthermore, Applicants expressly reserve the right to pursue claims drawn to the embodiments excluded by this amendment in one or more divisional applications.

In view of the amendments made herein, and in view of the Office Action’s acknowledgment that but for cancellation of non-elected material from the claims all claims are in condition for allowance, Applicants respectfully request such action.

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Respectfully submitted,


Kathleen M. Williams
Registration No.: 34,380
Customer No.: 29933
Palmer & Dodge LLP
111 Huntington Avenue
Boston, MA 02199
Phone: (617) 239-0100
Fax: (617) 227-4420